

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

U.S.A. vs. Antoine Gaithers

Docket No. 7:09-CR-135-1BO

Petition for Action on Supervised Release

COMES NOW Eddie J. Smith, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Antoine Gaithers, who, upon an earlier plea of guilty to 21 U.S.C. §§ 846 and 841(a)(1), Conspiracy to Posses with Intent to Distribute Controlled Substance, was sentenced by the Honorable William M. Walls, U.S. District Judge for the District of New Jersey, on March 9, 2000, to the custody of the Bureau of Prisons for a term of 168 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall refrain from the use of alcohol and shall submit to testing to ensure compliance. It is further ordered that the defendant submit to evaluation and treatment if directed by the U.S. Probation Office. The defendant shall abide by the rules of any program and remain in treatment until satisfactorily discharged with the approval of the U.S. Probation Office.
2. The defendant shall refrain from the illegal possession and/or use of drugs and shall submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that the defendant shall submit to drug treatment, on an outpatient or inpatient basis, if directed by the U.S. Probation Office. The defendant shall abide by the rules of any program and shall remain in treatment until satisfactorily discharged with the approval of the U.S. Probation Office.
3. The defendant shall provide the U.S. Probation Office with full disclosure of his financial records to include yearly income tax returns upon the request of the U.S. Probation Office. The defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income.

On June 4, 2008, the imprisonment sentence was reduced to 140 months pursuant to 18 U.S.C. §3582(c)(2). Antoine Gaithers was released from custody on May 8, 2009, at which time the term of supervised release commenced. On October 5, 2009, jurisdiction was transferred from the District of New Jersey to the Eastern District of North Carolina. On February 23, 2010, as a result of the defendant committing the offenses of Driving While Impaired (DWI), Driving While License Revoked (DWLR) and Exceeding Safe Speed, the court modified the conditions to include the following:

The defendant shall be confined in the custody of the Bureau of Prisons for a period of 8 days, as arranged by the probation officer, and shall abide by all rules and regulations of the designated facility.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: On November 14, 2010, the defendant was charged with DWI, and DWLR (10CR52607) in Sampson County, NC. The defendant reports that he decided to drive home after drinking alcohol and was observed swerving by an off-duty police officer. He was stopped by a uniformed officer and submitted to a breathalyzer test which registered a reading of .16. At the time of this incident, the defendant's driving privilege was revoked. He has been reprimanded for his actions and instructed not to drive unless properly licensed. Additionally, he has been reminded he is not to consume any alcohol. As a result of the latest DWI, he will be referred to substance abuse counseling. It is worth noting that Gaithers has a history of DWI offenses. Otherwise, the defendant has been in compliance with the conditions of supervision and has maintained gainful employment. As a sanction for this conduct, we are recommending that the defendant be placed on 180 days of home detention with electronic monitoring. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 180 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

/s/ Robert L. Thornton
Robert L. Thornton
Supervising U.S. Probation Officer

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Eddie J. Smith
Eddie J. Smith
U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: (910) 483-8613
Executed On: November 18, 2010

ORDER OF COURT

Considered and ordered this 18 day of Nov, 2010, and ordered filed and made a part of the records in the above case.

Terrence W. Boyle
Terrence W. Boyle
U.S. District Judge